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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@verizon.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/797,029	VENUGOPAL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SUK JIN KANG	2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 January 2009.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-19 and 21-30 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-19 and 21-30 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 24-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 24 states, "A computer-readable memory device having recorded thereon instructions for at least one processor, the instructions comprising instructions for the at least one processor..." Upon reading applicant's specification, it clearly states, "A computer-readable medium may include one or more memory devices and/or *carrier waves*". Since the computer-readable memory device could be considered an electromagnetic signal, the subject matter claimed is again deemed non-statutory subjected matter. Appropriate correction to the specification is required. *Examiner suggests Applicant remove the reference to carrier waves in the specification.* Claims 25-30 are rejected under 35 U.S.C. 101 because its failure to resolve the deficiency of Claim 24.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1, 3, 14, 15, 19, and 23-25** are rejected under 35 U.S.C. 102(b) as being anticipated by **Gardner et al.** (hereinafter Gardner) (Non-Patent Literature - "Techniques for Finding Ring Covers in Survivable Networks").

Consider **claims 1 and 16**, Gardner discloses a processor-implemented method for designing a ring cover candidate (page 1, column 2, lines 19-24) for a network, comprising:

receiving, at the processor, network configuration information (page 2, column 1, line 35; input a network N) and traffic demand information (page 2, column 1, lines 24-27; link traffic weight and costs) for the network; and

generating, by the processor, the ring cover candidate (page 1, column 2, lines 19-24), including a plurality of rings (page 1, column 2, lines 5-6), based on the network configuration information and the traffic demand information, each of the rings including a plurality of network spans (page 2, column 1, lines 36-38; page 2, column 2, lines 4-14), where the generating the ring cover candidate includes generating a plurality of ring cover candidates by using a different process to generate each of the ring cover candidates (page 4, column 2, lines 24-55; page 5, column 1, lines 1-7; figures 4-7; different processes/procedures are utilized determine ring cover candidates for the network).

Consider **claim 3**, Gardner further discloses creating a spanning tree from a plurality of loaded spans of the network (page 1, column 2, lines 32-43).

Consider **claim 14**, Gardner further discloses comparing the plurality of the ring cover candidates; and selecting one of the plurality of ring cover candidates as a recommended ring cover candidate (page 3, column 1, lines 26-40).

Consider **claim 15**, Gardner further discloses where the selecting one of the ring cover candidates comprises selecting one of the ring cover candidates having a highest number of loaded spans (page 2, column 1, lines 22-38).

Consider **claim 19**, Gardner further discloses where the at least one processor is further to store each of the rings of the at least one ring cover candidate in span linked lists associated with ones of a plurality of network spans of the network covered by the rings in the at least one storage device (page 1, column 2, lines 24-31).

Consider **claim 23**, Gardner discloses a system for identifying at least one ring cover candidate (page 1, column 2, lines 19-24) for a network, comprising:

means for receiving network configuration information (page 2, column 1, line 35, input a network N) and information representing predicted traffic demand for the network (page 2, column 1, lines 24-27, link traffic weight and costs);

means for generating a plurality of ring cover candidates (page 1, column 2, lines 19-24) using a different process to generate each of the ring cover candidates (page 4, column 2, lines 24-55; page 5, column 1, lines 1-7; figures 4-7; different processes/procedures are utilized determine ring cover candidates for the network), including a plurality of rings (page 1, column 2, lines 5-6), based on the network configuration information and the information representing predicted traffic demand, each of the ring cover candidates including a plurality of rings (page 1, column 2, lines

5-6), and each of the rings including a plurality of network spans (page 2, column 1, lines 36-38; page 2, column 2, lines 4-14); and

means for comparing the ring cover candidates and selecting one of the ring cover candidates as a recommended ring cover candidate (page 3, column 1, lines 26-40).

Consider **claim 24**, Gardner discloses a computer-readable memory device having recorded thereon instructions for at least one processor, the instructions comprising instructions for the at least one processor to perform a method, the method comprising:

generating a plurality of ring cover candidates (page 1, column 2, lines 19-24) for a network by using a different procedure to select a respective plurality of rings (page 1, column 2, lines 5-6) for each of the ring cover candidates (page 1, column 2, lines 19-31; page 3, column 1, lines 26-40), the generation of the ring cover candidates being based on configuration information (page 2, column 1, line 35, input a network N) and information representing predicted traffic demand associated with the network (page 2, column 1, lines 24-27, link traffic weight), each of the rings including a plurality of network spans (page 2, column 1, lines 36-38; page 2, column 2, lines 4-14); and

comparing the ring cover candidates and select one of the ring cover candidates as a recommended ring cover candidate based on the predicted traffic demand of network spans covered by each of the ring cover candidates (page 3, column 1, lines 26-40).

Consider **claim 25**, Gardner further discloses to create a spanning tree based on loaded ones of the network spans (page 1, column 2, lines 32-43), to generate a plurality of fundamental rings based on the spanning tree, and to generate a plurality of rings based on the generated fundamental rings (page 3, column 2, lines 2-5 and 13-15).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 2, 9-13, 17, and 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gardner et al.** (hereinafter Gardner) (Non-Patent Literature - "Techniques for Finding Ring Covers in Survivable Networks") in view of **Chow et al.** (hereinafter Chow) (U.S. Patent # 7,133,410 B2).

Consider **claims 2, 17, and 30**, Gardner discloses the claimed invention, but may not expressly disclose generating and outputting at least one report describing characteristics of the ring cover candidate.

Nonetheless, in the same field of endeavor, Chow discloses generating and outputting at least one report describing characteristics of the ring cover candidate (column 3, lines 7-11; column 6, lines 48-55; column 13, lines 56-60).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate outputting a report describing characteristics of the ring cover candidate as taught by Chow with the method as disclosed by Gardner for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 9**, Gardner, as modified by Chow, discloses the claimed invention, but may not expressly disclose where the at least one report includes characteristics of each of the rings included in the ring cover candidate.

Nonetheless, Chow further discloses where the at least one report includes characteristics of each of the rings included in the ring cover candidate (column 3, lines 7-11; column 6, lines 48-55; column 13, lines 56-60).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a report describing characteristics of the ring cover candidate as taught by Chow with the method as disclosed by Gardner, as modified by Chow, for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 10**, Gardner, as modified by Chow, discloses the claimed invention, but may not expressly disclose where the characteristics of each of the rings include a ring identifier, a number of nodes covered by a corresponding one of the rings, and a length of the corresponding one of the rings.

Nonetheless, Chow further discloses where the characteristics of each of the rings include a ring identifier, a number of nodes covered by a corresponding one of the rings, and a length of the corresponding one of the rings (column 3, lines 7-11; column 6, lines 48-55; column 13, lines 56-60).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a report describing characteristics of the ring cover candidate as taught by Chow with the method as disclosed by Gardner, as modified by Chow, for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 11**, Gardner, as modified by Chow, discloses the claimed invention, but may not expressly disclose where the at least one report includes information about network spans not covered by any valid ones of the rings of the ring cover candidate.

Nonetheless, Chow further discloses wherein the at least one report includes information about network spans not covered by any valid ones of the rings of the ring cover candidate (column 3, lines 7-11; column 6, lines 48-55; column 13, lines 56-60).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a report describing characteristics of the ring cover candidate as taught by Chow with the method as disclosed by Gardner, as modified by Chow, for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 12**, Gardner, as modified by Chow, discloses the claimed invention, but may not expressly disclose where the at least one report includes information about network spans not covered by any ones of the rings of the ring cover candidate.

Nonetheless, Chow further discloses where the at least one report includes information about network spans not covered by any ones of the rings of the ring cover candidate (column 3, lines 7-11; column 6, lines 48-55; column 13, lines 56-60).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a report describing characteristics of the ring cover candidate as taught by Chow with the method as disclosed by Gardner, as

modified by Chow, for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 13**, Gardner, as modified by Chow, discloses the claimed invention, but may not expressly disclose where the at least one report provides characteristics of each of the plurality of ring cover candidates.

Nonetheless, Chow further discloses where the at least one report provides characteristics of each of the plurality of ring cover candidates (column 3, lines 7-11; column 6, lines 48-55; column 13, lines 56-60).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a report describing characteristics of the ring cover candidate as taught by Chow with the method as disclosed by Gardner, as modified by Chow, for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

7. **Claims 4-8, 18, 21, and 26-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gardner et al.** (hereinafter Gardner) (Non-Patent Literature - "Techniques for Finding Ring Covers in Survivable Networks") in view of **Kennington et al.** (hereinafter Kennington) (Non-Patent Literature - "Optimization Based Algorithms for Finding Minimal Cost Ring Covers in Survivable Networks").

Consider **claim 4**, Gardner discloses the claimed invention, but may not expressly disclose generating a plurality of second rings by combining two of the

plurality of first rings; and generating a plurality of third rings by combining one of the second rings with one of the first rings.

Nonetheless, in the same field of endeavor, Kennington discloses generating a plurality of second rings by combining two of the plurality of first rings; and generating a plurality of third rings by combining one of the second rings with one of the first rings (page 3, lines 12-20; figure 1).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate generating a plurality of rings as taught by Kennington with the method as disclosed by Gardner for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 5**, Gardner, as modified by Kennington, discloses the claimed invention, but may not expressly disclose generating derived third degree rings and focused third degree rings.

Nonetheless, Kennington further discloses generating derived third degree rings and focused third degree rings (page 3, lines 12-20; page 4, lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate generating a plurality of rings as taught by Kennington with the method as disclosed by Gardner, as modified by Kennington, for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 6**, Gardner, as modified by Kennington, discloses the claimed invention, but may not expressly disclose where at least some of the third rings and the second rings are based on an invalid first ring

Nonetheless, Kennington further discloses where at least some of the third rings and the second rings are based on an invalid first ring (page 3, lines 1-20; page 4, lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate generating a plurality of rings as taught by Kennington with the method as disclosed by Gardner, as modified by Kennington, for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 7**, Gardner, as modified by Kennington, discloses the claimed invention, but may not expressly disclose storing information regarding the first rings, the second rings and the third rings in span-linked lists associated with respective ones of a plurality of network spans covered by the first rings, the second rings and the third rings.

Nonetheless, Kennington further discloses storing information regarding the first rings, the second rings and the third rings in span-linked lists associated with respective ones of a plurality of network spans covered by the first rings, the second rings and the third rings (page 3, lines 12-20; figure 1; page 4, lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate generating a plurality of rings as taught

by Kennington with the method as disclosed by Gardner, as modified by Kennington, for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 8**, Gardner discloses the claimed invention, but may not expressly disclose generating a third ring cover candidate by using cheapest ones of the rings from the first ring cover candidate.

Nonetheless, in the same field of endeavor, Kennington discloses generating a third ring cover candidate by using cheapest ones of the rings from the first ring cover candidate (abstract; page 7, lines 18-23; page 8, lines 1-2).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate generating a plurality of rings as taught by Kennington with the method as disclosed by Gardner for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 18**, Gardner discloses the claimed invention, but may not expressly disclose where the at least one processor is configured to generate a plurality of rings for each of the plurality of ring cover candidates, the plurality of rings including a plurality of fundamental rings, a plurality of second degree rings, and a plurality of third degree rings.

Nonetheless, in the same field of endeavor, Kennington discloses where the at least one processor is configured to generate a plurality of rings for each of the plurality of ring cover candidates, the plurality of rings including a plurality of fundamental rings

(figure 2), a plurality of second degree rings, and a plurality of third degree rings (page 3, lines 12-20; figure 1; page 4, lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate generating a plurality of rings as taught by Kennington with the method as disclosed by Gardner for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 21**, Gardner discloses the claimed invention, but may not expressly disclose to generate a first ring cover candidate by using shortest ones of the rings formed on loaded network spans, to generate a second ring cover candidate by using shortest ones of the rings formed on a maximum number of uncovered network spans, and to generate a third ring cover candidate by using shortest ones of the rings from the first ring cover candidate.

Nonetheless, in the same field of endeavor, Kennington discloses to generate a first ring cover candidate by using shortest ones of the rings formed on loaded network spans, to generate a second ring cover candidate by using shortest ones of the rings formed on a maximum number of uncovered network spans, and to generate a third ring cover candidate by using shortest ones of the rings from the first ring cover candidate (page 3, lines 1-20; page 4, lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate generating a plurality of rings as taught by Kennington with the method as disclosed by Gardner for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 26**, Gardner discloses the claimed invention, but may not expressly disclose wherein the plurality of rings based on the generated fundamental rings include at least one of second degree rings and third degree rings.

Nonetheless, in the same field of endeavor, Kennington discloses wherein the plurality of rings based on the generated fundamental rings (figure 2) include at least one of second degree rings and third degree rings (page 3, lines 12-20; figure 1; page 4, lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate generating a plurality of rings as taught by Kennington with the method as disclosed by Gardner for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 27**, Gardner, as modified by Kennington, discloses the claimed invention, but may not expressly disclose to attempt to create a focused third degree ring to cover a network span when the network span is covered only by an invalid fundamental ring.

Nonetheless, Kennington further discloses to attempt to create a focused third degree ring to cover a network span when the network span is covered only by an invalid fundamental ring (page 3, lines 1-20; page 4, lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate generating a plurality of rings as taught by Kennington with the method as disclosed by Gardner, as modified by Kennington, for

the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

Consider **claim 28**, Gardner, as modified by Kennington, discloses the claimed invention, but may not expressly disclose where the plurality of rings based on the generated fundamental rings are formed by combining a fundamental ring with another of the rings, and the fundamental ring and the another of the rings have a network span in common.

Nonetheless, Kennington further discloses where the plurality of rings based on the generated fundamental rings (figure 2) are formed by combining a fundamental ring with another of the rings, and the fundamental ring and the another of the rings have a network span in common (page 3, lines 1-20; page 4, lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate generating a plurality of rings as taught by Kennington with the method as disclosed by Gardner, as modified by Kennington, for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

8. **Claims 22 and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gardner et al.** (hereinafter Gardner) (Non-Patent Literature - "Techniques for Finding Ring Covers in Survivable Networks") in view of **Grover et al.** (hereinafter Grover) (U.S. Patent # 6,819,662 B1).

Consider **claims 22 and 29**, Gardner discloses the claimed invention, but may not expressly disclose wherein the at least one processor is further configured to rank each of a plurality of rings included in the at least one ring cover candidate, the rank being based on a measure of a benefit of including a respective ring in the at least one ring cover candidate versus a measure of a cost of including the respective ring in the at least one ring cover candidate.

Nonetheless, in the same field of endeavor, Grover discloses wherein the at least one processor is further configured to rank each of a plurality of rings included in the at least one ring cover candidate (column 14, lines 19-31), the rank being based on a measure of a benefit of including a respective ring in the at least one ring cover candidate versus a measure of a cost of including the respective ring in the at least one ring cover candidate (abstract; column 15, lines 1-15).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate ranking each of a plurality of rings as taught by Grover with the method as disclosed by Gardner for the purpose of effectively identifying and designing a ring cover candidate in order to restore a network.

### ***Response to Arguments***

9. Applicant's arguments filed January 8, 2009 have been fully considered but they are not persuasive.

Consider claims 1, 16, and 23, Applicant argues that Gardner et al. does not disclose or suggest generating the ring cover candidate includes generating a plurality

of ring cover candidates by using a different process to generate each of the ring cover candidates.

The Examiner respectfully disagrees with Applicant's argument because as recited in the above rejections, Gardner does not disclose or suggest generating the ring cover candidate includes generating a plurality of ring cover candidates by using a different process to generate each of the ring cover candidates.

Applicants are reminded that claims subject to examination will be given their broadest reasonable interpretation consistent with the specification. *In re Morris*, 127 F.3d 1048, 1054-55 (Fed. Cir. 1997). As a matter of fact, the "examiner has the duty of police claim language by giving it the broadest reasonable interpretation." *Springs Window Fashions LP v. Novo Industries, L.P.*, 65 USPQ2d 1862, 1830, (Fed. Cir. 2003). Applicants are also reminded that claimed subject matter not the specification, is the measure of the invention. Disclosure contained in the specification cannot be read into the claims for the purpose of avoiding the prior art. *In re Sporck*, 55 CCPA 743, 386 F.2d, 155 USPQ 687 (1986).

Gardner teaches and discloses a method for determining a ring cover and ring cover candidates for a network. Gardner further discloses receiving network configuration information (page 2, column 1, line 35; input a network N) and traffic information (page 2, column 1, lines 24-27; link traffic weight and costs) for the network for a program which is understood to be executable by a computer/processor (page 1, column 2, lines 19-47). Gardner teaches different processes/procedures which are

utilized in order to determine the ring cover candidates for the network (page 4, column 2, lines 24-55; page 5, column 1, lines 1-7; figures 4-7).

Furthermore, consider claim 24, which stands rejected under 35 U.S.C. 101, has been amended to state, "A computer-readable memory device having recorded thereon instructions for at least one processor, the instructions comprising instructions for the at least one processor..."

However, Applicant's specification, clearly states, "A computer-readable medium may include one or more memory devices and/or *carrier waves*", and since the computer-readable memory device could be considered an electromagnetic signal, the subject matter claimed is still deemed non-statutory subjected matter. Appropriate correction to the specification is required. Examiner suggests Applicant remove the reference to carrier waves in the specification.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

12. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Suk Jin Kang whose telephone number is (571) 270-1771. The examiner can normally be reached on Monday - Friday 8:00-5:00 EST.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Chirag Shah can be reached on (571) 272-3144. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

*/Suk Jin Kang/  
/S. K./  
Examiner, Art Unit 2419*

April 14, 2009

*/Gregory B Sefcheck/  
Primary Examiner, Art Unit 2419  
4-15-2009*